

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 03-CI-1135  
DIVISION II

RECEIVED NOV 15 2004

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COMMONWEALTH OF KENTUCKY  
Ex rel. GREGORY D. STUMBO, ATTORNEY  
GENERAL,

PLAINTIFF

v.

SCHERING PHARMACEUTICALS CORPORATION,  
SCHERING-PLOUGH CORPORATION  
SCHERING CORPORATION  
DEY, INC.

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DEFENDANTS

**RESPONSE OF DEFENDANTS WARRICK PHARMACEUTICALS CORP.,  
SCHERING-PLOUGH CORP. AND SCHERING CORP. TO PLAINTIFF'S  
FIRST SET OF REQUESTS FOR PRODUCTION**

Pursuant to the Kentucky Rules of Civil Procedure, Defendants Warrick Pharmaceuticals Corporation, Schering-Plough Corporation and Schering Corporation (collectively "Respondent"), by and through their undersigned counsel, jointly respond to Plaintiff State of Kentucky's First Set of Requests for Production ("Request"), served separately on the Respondent entities by first-class mail on March 29, 2004.

**GENERAL OBJECTIONS**

1. Respondent provides this response without waiver of or prejudice to its right, at any later time, to raise objections to: (a) the relevance, materiality, or admissibility of (i) the Request or any part thereof, (ii) statements made in this response to the Request or any part thereof, or (iii) any document produced pursuant to this response; or (b) any further demand for discovery involving or relating to the matters raised in the Request.

2. Respondent objects to the place and time directed for the production of documents. Subject to and without waiving any objection set forth herein, Respondent will

produce responsive documents and/or make them available for inspection and designation for copying at a mutually-agreeable time and location.

3. Respondent objects to the Request to the extent that it demands production of any document covered by the attorney-client privilege or the work product doctrine, third-party confidentiality agreements or protective orders, or any other applicable privilege, immunity or protection. In the event any document subject to a privilege, immunity or protection is produced by Respondent, its production is inadvertent and does not constitute a waiver of any privilege, immunity or protection.

4. Respondent objects to each of the Requests and to the Definition of "Defined Period of Time" (i) to the extent they call for information generated after September 15, 2003, the date this action was commenced, or (ii) to the extent they call for information pertaining to any time before September 15, 1998, given that the longest limitations period applicable to any of Plaintiff's claims is 5 years; because the Requests are to this extent overly broad and unduly burdensome, and seek information that is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Except as specifically stated below, and subject to and without waiving any objection, Respondent's responses herein shall be limited to the period between September 15, 1998 and September 15, 2003.

5. Respondent objects to the Request to the extent that it calls upon Respondent for, and/or to reveal, legal conclusions to Plaintiff. Respondent's responses shall not be deemed to constitute admissions (i) that any particular document or thing exists, is relevant, or admissible in evidence, or (ii) that any statement or characterization in the Request is accurate or complete.

6. Respondent has not completed its investigation and discovery relating to this case. The specific responses set forth below and any production made pursuant to the responses are based upon, and necessarily limited by, information now available to Respondent. Respondent reserves the right, at any time, to revise, correct, and to supplement, modify, or clarify the specific responses set forth below or the information disclosed therein. By this reservation, Respondent does not, however, assume a continuing responsibility to update its responses beyond the requirements of the Kentucky Rules of Civil Procedure and the local rules of this Court, and it objects to the Requests to the extent they seek to impose any such continuing obligation.

7. In the responses that follow, a statement that responsive documents will be produced does not mean that: (a) any documents exist; or (b) they are in Respondent's possession, custody, or control.

8. Respondent undertakes to produce documents in response to the Request only to the extent required by the Kentucky Rules of Civil Procedure, the local rules of this Court, and other applicable law (collectively, "Rules"), and defendants object to the Request to the extent that it purports to exceed or conflict with those Rules. By way of example only, and without limitation, Respondent objects to Plaintiff's "definitions" and "instructions" and to any other preliminary statements to the extent Plaintiff intends to expand upon or alter the Rules, and Respondent objects to the definitions of "Document," "You," "Your," and "Your Company" as set forth in Definition Nos. 15 and 34 and to Instruction Nos. 1-8, to the extent they seek to impose discovery obligations that are broader than, or inconsistent with, Respondent's obligations under the Rules.

9. Respondent objects to the extent that the Requests are directed (as set forth in Definition No. 34) to each of Warrick's, Schering's and Schering-Plough's "domestic or foreign parents, and any other affiliated company, subsidiary, division, joint venture or other Entity having at least 10% ownership interest in [Respondent]; [Respondent's] agents, independent contractors, directors, employees, officers, and representatives; and merged, consolidated or acquired predecessors; and any other person or Entity acting on behalf of [Respondent]." Respondent asserts that Definition No. 34 is overly broad, unduly burdensome and seeks information that is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence because, *inter alia*, all of the Subject Drugs are Warrick products. Schering-Plough is the parent corporation of Schering, a wholly-owned subsidiary and Warrick, a second-tier subsidiary. For this reason, the collective responses of Respondent (furnished below subject to and without waiver of any objection) concern Warrick, and Respondent's production herein shall be based on a reasonable inquiry and investigation for responsive documents, including documents at Warrick's home office and in the possession of a reasonable number of sales representatives.

10. Respondent objects to producing information relating to the defined term AMP (Definition No. 4) as such information is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Specifically, Plaintiff has asserted a claim based upon the Medicaid reimbursement system it established, which is wholly unrelated to any AMPs that would otherwise be reported pursuant to the federal statute. Respondent

further objects to this Definition to the extent that it is broader than the definition provided to this term by federal statute.

11. Respondent objects to producing information relating to the defined term ASP (Definition No. 5) as such information is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Specifically, Plaintiff has asserted a claim based upon the Medicaid reimbursement system it established, which is wholly unrelated to any ASPs that Respondent might otherwise report. Respondent further objects to this Definition to the extent that it is broader than the definition provided to this term by federal statute.

12. Respondent objects to the definition of “DP” as vague and ambiguous to the extent that it purports to encompass anything other than the direct net price for any pharmaceutical.

13. Respondent objects to the definition of “Incentive” set forth in Definition No. 20 on the ground that it is, and renders the Request, vague and ambiguous. Respondent further objects to the extent the term “Incentive” is used to characterize various types of “discounts” and “rebates.” This characterization lacks factual foundation and depends upon a legal conclusion. Use of this argumentative characterization is an improper device intended by Plaintiff to assume away an evidentiary burden borne exclusively by Plaintiff – namely, whether “discounts” or “rebates” are in fact “Incentives.”

14. Respondent objects to the definition of “Publisher” set forth in Definition No. 27 on the ground that it is, and renders the Request, vague and ambiguous. Warrick further objects

to Definition No. 27 to the extent it purports to encompass Publishers other than those identified in the Amended Complaint.

15. Warrick objects to the definition of “Spread” set forth in Definition No. 29 on the ground that it is, and renders the Request, vague and ambiguous.

16. Warrick objects to the definition of “SWP” set forth in Definition No. 32 on the ground that it is, and renders the Request, vague and ambiguous.

17. Respondent objects to each request to the extent that it may be construed as calling for the production of confidential information relating to a patient. Respondent will not produce any such material to the extent it is under any obligation to maintain the patient information in confidence. Respondent will not disclose such material unless the patient grants permission to do so.

18. Respondent objects to the Requests as unduly burdensome to the extent that they seek documents that are available, in a way that would be less burdensome or expensive, from a public source or some other source available to the Plaintiff.

19. Respondent objects to the Requests to the extent that they purport to require Respondent to search through an unduly large number of documents or to search for documents that are not accessible, available or locatable without imposing an undue burden upon Respondent. Subject to and without waiving any objection, Respondent will conduct a reasonable search for responsive documents that are reasonably accessible, available and locatable.

20. Respondent objects to these Requests to the extent they seek information regarding the Medicaid rebate program on the grounds that such information is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in

this litigation, and not reasonably calculated to lead to the discovery of admissible evidence, because, *inter alia*, there are no Medicaid rebate claims in Plaintiff's Amended Complaint.

21. Respondent objects to these Requests to the extent they seek information regarding drugs other than the Subject Drugs that are at issue in this litigation or concern matters not related to Kentucky, because such information is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

22. Any production of documents or information responsive to requests to which Respondent has objected is not intended to and does not waive those or any other objections.

23. Respondent objects to the Request to the extent that it seeks confidential or proprietary information, and will not produce documents containing confidential or proprietary information unless and until an appropriate protective order is entered. Respondent's production and responses to the Request are supplied for use in this litigation and for no other purpose.

24. Respondent objects to the Request to the extent that it is indefinite and/or fails to describe the categories of documents to be produced with reasonable particularity, and to the extent that it employs terms or definitions that render the Request vague or ambiguous. Except as otherwise stated, Respondent will interpret any such term based on its understanding of the term's usage, if any, by Respondent and/or in the pharmaceutical industry.

25. Respondent expressly incorporates these General Objections into each specific response to the request set forth below as if set forth in full therein. These General Objections form a part of the response to each and every request and are set forth here to avoid the unnecessary duplication and repetition that would result from restating them for each response

below. The response to a request shall not operate as a waiver of any applicable specific or general objection to a request.

### **SPECIFIC OBJECTIONS**

Request No. 1: All documents identified and/or referenced in your responses to Plaintiff's First Set of Interrogatories.

Response to Request No. 1:

In addition to the General Objections set forth above, Respondent incorporates by reference its general and specific objections articulated in its Response to Plaintiff's First Set of Interrogatories. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents that Respondent stated it would produce in response to Plaintiff's First Set of Interrogatories.

Request No. 2: All documents regarding your ordinary course of business definition or explanation or definition of terms used to report, describe, advertise, or market pharmaceutical prices, and the differences between prices, including, but not limited to, AWP, ASP, SWP, WAC, DP, "List Price," "Net Wholesale Price," AMP, Best Price, "Contract Price," "Earned Margin," "X Code Price," "Ex-Factory Price," "Retail Price," Incentive, or Spread. For all document requests, to the extent your definition of one of these terms differs from the above Definition for the above terms, please provide documents using both definitions and identify (where possible) which definition applies to a particular production.

Response to Request No. 2:

In addition to the General Objections set forth above, Respondent objects to Request No. 2 on the ground that it is overly broad, unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.



Accordingly, Respondent objects to Request No. 2 to the extent that, *inter alia*, it seeks (i) “[a]ll documents regarding your ordinary course of business definition or explanation or definition;” (ii) documents concerning “business definition[s]” for the terms DP and WAC, as such terms that are not used by Warrick in the “ordinary course of business;” (iii) documents concerning the terms SWP, List Price, Net Wholesale Price, Best Price, Contract Price, Earned Margin, X Code Price, Ex-Factory Price, Retail Price and Incentive, and document concerning “business definition[s]” for such terms, because, *inter alia*, such terms are not used by Warrick in the “ordinary course of business” and, as defined by plaintiff, are vague and ambiguous; and (iv) documents concerning “business definition[s]” for the terms ASP and AMP, as the definitions for such terms are proscribed by federal statutes are not relevant to the reimbursement system that serves as the basis of plaintiff’s claims. Respondent further objects to this Request on grounds that the use of the following terms and phrases render it vague and ambiguous: “your ordinary course of business definition or explanation or definition”; “List Price;” “Net Wholesale Price;” “Contract Price;” “Earned Margin;” “X Code Price;” “Ex-Factory Price;” and “Retail Price.” Respondent further objects to this Request to the extent that the final sentence of the Request is incomprehensible and purports to impose burdens upon Respondent beyond what the Rules permit for a request for production of documents. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, responsive to Request No. 2 relating to the defined terms AWP, WAC, and DP.

Request No. 3: All documents relating to AWP, including, but not limited to:

- a) documents regarding what the AWP is for the Subject Drugs;

- b) documents regarding how AWP is calculated, regardless of who calculated AWP;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the AWP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs.
- d) any training material regarding AWP;
- e) any promotional material regarding AWP;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding AWP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's AWP and the Pharmaceutical's AMP, WAC, DP, SWP, ASP, FUL, MAC, or its Actual Acquisition Price.

Response to Request No. 3:

In addition to the General Objections set forth above, Respondent objects to Request No. 3 on the ground that use of the following phrases render it vague and ambiguous: "relationship between a Pharmaceutical's AWP and the Pharmaceutical's AMP, WAC, DP, SWP, ASP or its Actual Acquisition Price;" "training material;" and "promotional material." Respondent further objects to this Request on the ground that it seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 3 to the extent that, *inter alia*, (i) it seeks "[a]ll documents relating to AWP"; (ii) it is not limited to the Subject Drugs or to Kentucky; and (iii) it seeks

documents regarding the defined terms AMP, SWP, ASP and Actual Acquisition Price. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No.3 relating to its use and/or calculation of AWP for the Subject Drugs.

Response No. 4: All documents relating to WAC, including, but not limited to:

- a) documents regarding what the WAC is for the Subject Drugs;
- b) documents regarding how WAC is calculated, regardless of who calculated WAC;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the WAC for any Subject Drugs you manufacture, market, or sell;
- d) any training material regarding WAC;
- e) any promotional material regarding WAC;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding WAC; and
- g) any and all documents regarding the relationship between a Pharmaceutical's WAC and the Pharmaceutical's AMP, DP, ASP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

Response to Request No. 4:

In addition to the General Objections set forth above, Respondent objects to Request No. 4 because its use of following phrases renders the Request vague and ambiguous: "relationship between a Pharmaceutical's WAC and the Pharmaceutical's AMP, DP, ASP, SWP, AWP or its Actual Acquisition Price;" "training material;" and "promotional material." Respondent further

objects to this Request on the ground that it seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 4 to the extent that, *inter alia*, (i) it seeks “[a]ll documents relating to WAC”; (ii) it seeks documents regarding the defined terms AMP, SWP, ASP and Actual Acquisition Price; and (iii) it is not limited to the Subject Drugs or to Kentucky. Finally, Respondent objects to Request No. 4 to the extent that it is duplicative and cumulative of other requests, including without limitation Request No. 3. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 4 (to the extent such documents exist and are not produced pursuant to Request No. 3) relating to its use and/or calculation of WAC for the Subject Drugs.

Request No. 5: All documents regarding AMP, including, but not limited to:

- a) documents regarding what the AMP is for the Subject Drugs;
- b) documents regarding how AMP is calculated, regardless of who calculated AMP;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the AMP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding AMP;
- e) any promotional material regarding AMP;

- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding AMP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's AMP and the Pharmaceutical's ASP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

Response to Request No. 5:

In addition to the General Objections set forth above, Respondent objects to Request No. 5 because its use of following phrases renders the Request vague and ambiguous: "relationship between a Pharmaceutical's AMP and the Pharmaceutical's ASP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price;" "training material;" and "promotional material." Respondent further objects to this Request because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 5 to the extent that, *inter alia*, (i) it is not limited to the Subject Drugs or to Kentucky; (ii) it seeks documents regarding the defined terms AMP, SWP, ASP and Actual Acquisition Price; and (iii) it seeks "[a]ll documents regarding AMP." Finally, Respondent objects to Request No. 5 to the extent that it is duplicative and cumulative of other requests, including without limitation Requests Nos. 3 and 4.

Request No. 6: All documents regarding ASP, including, but not limited to:

- a) documents regarding what the ASP is for the Subject Drugs;
- b) documents regarding how ASP is calculated, regardless of who calculated ASP;

- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the ASP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding ASP;
- e) any promotional material regarding ASP;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding ASP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's ASP and the Pharmaceutical's AMP, WAC, DP, SWP, AWP, FUL, MAC, or its actual Acquisition Price.

Response to Request No. 6:

In addition to the General Objections set forth above, Respondent objects to Request No. 6 because its use of following phrases renders the Request vague and ambiguous: "relationship between a Pharmaceutical's ASP and the Pharmaceutical's AMP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price;" "training material;" and "promotional material." Respondent further objects to this Request because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, respondent objects to Request No. 6 to the extent that, *inter alia*, (i) it is not limited to the Subject Drugs or to Kentucky; (ii) it seeks documents regarding the defined terms AMP, SWP, ASP and Actual Acquisition Price; and (iii) it seeks "[a]ll documents regarding ASP." Finally, Respondent objects to Request No. 6 to the

extent that it is duplicative and cumulative of other requests, including without limitation Request Nos. 3-5.

Request No. 7: All documents regarding DP, including, but not limited to:

- a) documents regarding what the DP is for the Subject Drugs;
- b) documents regarding how DP is calculated, regardless of who calculated DP;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the DP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding DP;
- e) any promotional material regarding DP;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding DP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's DP and the Pharmaceutical's AMP, ASP, WAC, SWP, AWP, FUL, MAC, or its actual Acquisition Price.

Response to Request No. 7:

In addition to the General Objections set forth above, Respondent objects to Request No. 7 because its use of following phrases renders the Request vague and ambiguous: "relationship between a Pharmaceutical's DP and the Pharmaceutical's AMP, ASP, WAC, SWP, AWP, FUL, MAC, or its Actual Acquisition Price;" "training material;" and "promotional material." Respondent further objects to this Request because it is overly broad, unduly burdensome, and

seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 7 to the extent that, *inter alia*, (i) it is not limited to the Subject Drugs or to Kentucky; (ii) it seeks documents regarding the defined terms AMP, SWP, ASP and Actual Acquisition Price; and (iii) it seeks “[a]ll documents regarding DP.” Finally, Respondent objects to Request No. 7 to the extent that it is duplicative and cumulative of other requests, including without limitation Request Nos. 3-6. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 7 (to the extent such documents exist and are not produced pursuant to Request Nos. 3-6) relating to its use and/or calculation of DP for the Subject Drugs.

Request No. 8: All documents regarding SWP, including, but not limited to:

- a) documents regarding what the SWP is for the Subject Drugs;
- b) documents regarding how SWP is calculated, regardless of who calculated SWP;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the SWP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding SWP;
- e) any promotional material regarding SWP;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding SWP; and



- g) any and all documents regarding the relationship between a Pharmaceutical's SWP and the Pharmaceutical's AMP, ASP, WAC, AWP, FUL, MAC, or its actual Acquisition Price.

Response to Request No. 8:

In addition to the General Objections set forth above, Respondent objects to Request No. 8 because its use of following phrases renders the Request vague and ambiguous: "relationship between a Pharmaceutical's SWP and the Pharmaceutical's AMP, ASP, WAC, AWP, FUL, MAC, or its Actual Acquisition Price;" "training material;" and "promotional material." Respondent further objects to this Request because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 8 to the extent that, *inter alia*, (i) it is not limited to the Subject Drugs or to Kentucky; (ii) it seeks documents regarding the defined terms AMP, SWP, ASP and Actual Acquisition Price; and (iii) it seeks "[a]ll documents regarding SWP." Finally, Respondent objects to Request No. 8 to the extent that it is duplicative and cumulative of other requests, including without limitation Request Nos. 3-7.

Request No. 9: All documents regarding Spread, including, but not limited to:

- a) documents regarding what the Spread is for the Subject Drugs;
- b) documents regarding how Spread is calculated, regardless of who calculated Spread;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the

Spread for any Pharmaceutical you manufacture, market, or sell,  
including, but not limited to, the Subject Drugs;

- d) any training material regarding Spread;
- e) any promotional material regarding Spread;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding Spread; and
- g) any and all documents regarding the relationship between a Pharmaceutical's Spread and the Pharmaceutical's AMP, ASP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

Response to Request No. 9:

In addition to the General Objections set forth above, Respondent objects to Request No. 9 because its use of following phrases renders the Request vague and ambiguous: "relationship between a Pharmaceutical's Spread and the Pharmaceutical's AMP, ASP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price;" "training material;" and "promotional material." Respondent further objects to this Request on the ground that it seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 9 to the extent that, *inter alia*, (i) it is not limited to the Subject Drugs or Kentucky; (ii) it seeks documents regarding the defined terms AMP, ASP, SWP and Actual Acquisition Price; and (iii) it seeks "[a]ll documents regarding Spread." Finally, Respondent objects to Request No. 9 to the extent that it is duplicative and cumulative of other requests, including without limitation Request Nos. 3-8.

Request No. 10: All documents that identify the "Ex-Factory Price," "Earned Margin" (the difference between AWP and your actual product cost), Actual Acquisition Price, "Net Wholesale Price" or any other information related to the actual net prices paid by wholesalers, distributors, Group Purchasing Organizations, independent distribution networks, pharmacy benefit managers, or Healthcare Providers for any of the Subject Drugs. Such documents shall include, but not be limited to, price lists, catalogs and/or sell sheets.

Response to Request No. 10:

In addition to the General Objections set forth above, Respondent objects to Request No. 10 because its use of following phrases renders the Request vague and ambiguous: "Ex-Factory Price;" "Earned Margin;" "Net Wholesale Price;" "product cost;" "actual net price;" and "sell sheets." Respondent further objects to this Request because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 10 to the extent that, *inter alia*, (i) it is not limited to Kentucky; and (ii) it seeks document relating to Ex-Factory Price, Earned Margin, Net Wholesale Price, and actual net prices. Finally, Respondent objects to Request No. 10 to the extent that it is duplicative and cumulative of other requests, including without limitation Request No. 3. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 10 (to the extent such documents exist and are not produced pursuant to Request No. 3) relating to its use and/or calculation of AWP for the Subject Drugs.

Request No. 11: All documents that identify whether the AWP, ASP, WAC, AMP, DP, SWP, and/or Earned Margin of any Subject Drugs, include all rebates, discounts, allowances, credits, and any other Incentive provided to third parties (i.e., wholesalers) or Healthcare Providers.

Response to Request No. 11:

In addition to the General Objections set forth above, Respondent objects to Request No. 11 because its use of the terms “Earned Margin” and “Incentive” renders the Request vague and ambiguous. Respondent further objects to this Request because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 11 to the extent that, *inter alia*, it (i) is not limited to Kentucky; and (ii) seeks document relating to ASP, AMP, SWP and Earned Margin. Finally, Respondent objects to Request No. 11 to the extent that it is duplicative and cumulative of other requests, including without limitation Request Nos. 3-8. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 11 (to the extent such documents exist and are not produced pursuant to Request Nos. 3-8) that relate to its calculation of AWP, WAC and DP for third parties and Healthcare Providers.

Request No. 12: All documents relating to any Publisher, including, but not limited to any communications, correspondence, reports, analysis of pricing methodology, contracts, or agreements by and between you and any Publisher, whether or not such documents relate to the Subject Drugs.

Response to Request No. 12:

In addition to the General Objections set forth above, Respondent objects to Request No. 12 on the ground that its use of the terms “Earned Margin,” “Publisher” and “analysis of pricing methodology” renders the Request vague and ambiguous. Respondent further objects to this Request because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 12 to the extent that, *inter alia*, it: (i) seeks document relating to ASP, AMP, SWP and Earned Margin; (ii) seeks “all documents relating to any Publisher”; and (iii) is not limited to the Subject Drugs or Kentucky. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that constitute communications, contracts or agreements with Publishers or communications with Publishers regarding the Subject Drugs.

Request No. 13: All documents relating to any communications by and between you and the Kentucky Cabinet for Health and Family Services and/or the Medical Assistance Program, including, but not limited to, correspondence, contracts or agreements, and Medicaid rebate program invoices.

Response to Request No. 13:

In addition to the General Objections set forth above, Respondent objects to Request No. 13 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this Request to the extent that, *inter alia*, it: (i) seeks “[a]ll

documents relating to any communications;” and (ii) is not limited to communications regarding the Subject Drugs. Respondent further objects to this Request to the extent that it requests documents not within Respondent’s possession, custody or control. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 13 and constitute correspondence, contracts or agreements with the Kentucky Cabinet for Health and Family Services and/or Medical Assistance Program that relate to the Subject Drugs.

Request No. 14: All documents between you and any other Kentucky State agency, office, official, or employee including, but not limited to communications to the Legislative Research Commission or General Assembly regarding Kentucky statutes, regulations, and legislation regarding the Medical Assistance Program.

Response to Request No. 14:

In addition to the General Objections set forth above, Respondent objects to Request No. 14 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this Request to the extent that, *inter alia*, it: (i) seeks “[a]ll documents;” and (ii) is not limited to documents regarding the Subject Drugs. Respondent further objects to this Request to the extent it is cumulative and duplicative of other requests, including without limitation Request No. 13. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 14 (to the extent such documents exist and are not produced pursuant to Request No. 13) and constitute communications to the Legislative Research

Commission or General Assembly regarding Kentucky statutes, regulations, and legislation regarding the Medical Assistance Program and the Subject Drugs.

Request No. 15: All documentation of communications between you and any state (other than Kentucky) agency, office, official, or Entity concerning the Medicaid reimbursement system, procedures, rules, and requirements.

Response to Request No. 15:

In addition to the General Objections set forth above, Respondent objects to Request No. 15 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Respondent objects to this Request to the extent that it: (i) seeks “[a]ll documentation of communications;” and (ii) is not limited to documents regarding Kentucky or the Subject Drugs.

Request No. 16: All documents relating to any communications by and between you and CMS, relating to reimbursement under the Medicare Part B and the Medicaid program for any of your Pharmaceuticals. Such documents shall include, but not be limited to, correspondence, contracts, or agreements.

Response to Request No. 16:

In addition to the General Objections set forth above, Respondent objects to Request No. 16 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 16 to the extent that, *inter alia*, it: (i) seeks “[a]ll documents relating to any communications;” and (ii) is not limited to communications

regarding the Subject Drugs or Kentucky. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 16 and constitute correspondence, contracts or agreements with CMS relating to reimbursement under the Medicare Part B and the Medicaid program for the Subject Drugs.

Request No. 17: All documents relating to how any formula, calculation, methodology, guideline, survey, policy, or procedure used or applied by the CMS to establish or adjust a Federal Upper Limit affects reimbursement for any of the Subject Drugs.

Response to Request No. 17:

In addition to the General Objections set forth above, Respondent objects to Request No. 17 on the ground that its use of the terms “affects reimbursement” “formula,” “methodology,” and “survey” renders the Request vague and ambiguous. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that it believes are responsive to Request No. 17.

Request No. 18: All documents relating to how any formula, calculation, methodology, guideline, survey, policy, or procedure used, or applied by the CMS to establish, or adjust the reimbursement amount for any Healthcare Common Procedure Coding System ("HCPCS") code that encompasses any of the Subject Drugs, affects reimbursement for any of the Subject Drugs.

Response to Request No. 18:

In addition to the General Objections set forth above, Respondent objects to Request No. 18 on the ground that its use of the terms “affects reimbursement” “formula,” “methodology,” and “survey” renders the Request vague and ambiguous. Subject to and without waiving these



specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that it believes are responsive to Request No. 18.

Request No. 19: For sales of Subject Drugs in the United States, all documents relating to the market share for any Subject Drugs within the Defined Period of Time, and, if available, both overall, and by Pharmaceutical Class of Trade.

Response to Request No. 19:

In addition to the General Objections set forth above, Respondent objects to Request No. 19 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 19 to the extent that, *inter alia*, it: (i) seeks “[a]ll documents relating to ... market share;” and (ii) is not limited to the market share of the Subject Drugs in Kentucky. Respondent further objects to this Request on the ground that it fails to define the product market within which it seeks market share information and thus is vague and ambiguous. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 18 and that it believes relate to the product specific market share of the Subject Drugs.

Request No. 20: All documents relating to the market share in the United States for any Competing Pharmaceutical within the Defined Period of Time, and, if available, both overall, and by Pharmaceutical Class of Trade.

Response to Request No. 20

In addition to the General Objections set forth above, Respondent objects to Request No. 20 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 20 to the extent that, *inter alia*, it: (i) seeks “[a]ll documents relating to ... market share;” and (ii) is not limited to the market share of Competing Pharmaceuticals in Kentucky. Respondent further objects to this Request on the ground that it fails to define the product market within which it seeks market share information and thus is vague and ambiguous. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 20 and that it believes relate to the product specific market share of the Competing Pharmaceuticals.

Request No. 21: For sales of Subject Drugs in the United States, all reports or memoranda relating to the sales (by dollar and by unit), cost of sales, revenues, and profits for any Subject Drugs, by each quarter of your fiscal year within the Defined Period of Time, and, if available, both overall, and by Pharmaceutical Class of Trade.

Response to Request No. 21:

In addition to the General Objections set forth above, Respondent objects to Request No. 21 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 21 to the extent that, *inter alia*, it is not limited to sales of the Subject Drugs in Kentucky. Subject to and without waiving these specific

objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 22 and relate to the dollar and unit sales and revenues for the Subject Drugs in Kentucky.

Request No. 22: All documents prepared by you, a defendant, a competitor, or a third party, which analyze, evaluate, or summarize information referring, or relating to the market allocation, sales territories, distribution, marketing, pricing, or selling of the Subject Drugs including, without limitation, documents referring, or relating to sales, volumes, product lines, profitability, competition, market share, competitive position, or sales territories.

Response to Request No. 22:

In addition to the General Objections set forth above, Respondent objects to Request No. 22 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the Request to the extent that, *inter alia*, it is not limited to the Commonwealth of Kentucky. Respondent further objects to Request No. 22 on the grounds that its use of the phrases “market allocation,” “distribution,” “market share,” and “competitive position,” which are not defined, renders this Request vague, ambiguous, and overbroad. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 22 and that Respondent believes to be “market share” reports prepared by Respondent personnel and market share data purchased from third parties.

Request No. 23: For sales of Subject Drugs in Kentucky (or, if not available by state, by geographic region that includes Kentucky), all documents relating to the market share for any

Competing Pharmaceutical within the Defined Period of Time, and, if available, both overall and by Pharmaceutical Class of Trade.

Response to Request No. 23:

In addition to the General Objections set forth above, Respondent objects to Request No. 23 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 23 to the extent that, *inter alia*, it seeks “[a]ll documents relating to ... market share.” Respondent further objects to this Request on the ground that it fails to define the product market within which it seeks market share information and thus is vague and ambiguous. Finally, Respondent objects to Request No. 23 to the extent that it is duplicative and cumulative of other requests, including without limitation Request No. 20. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 23 (to the extent such documents exist and are not produced pursuant to Request No. 20) that it believes relate to the product specific market share of the Competing Pharmaceuticals.

Request No. 24: For sales of Subject Drugs in Kentucky (or, if not available by state, by geographic region that includes Kentucky), all reports or memoranda relating to the sales (by dollar and by unit), prices, price premiums, profit margins, cost of sales, revenues, and profits for any Subject Drugs, by each quarter of your fiscal year within the Defined Period of Time, and, if available, both overall, and by Pharmaceutical Class of Trade.

Response to Request No. 24:

In addition to the General Objections set forth above, Respondent objects to Request No. 24 to the extent that it is duplicative and cumulative of other requests, including without limitation Request No. 21. Respondent further objects to Request No. 24 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 24 to the extent that, *inter alia*, it seeks “all reports or memoranda . . .” Respondent further objects to this Request because its use of the phrase “price premiums” renders the Request vague and ambiguous. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 24 (to the extent such documents exist and are not produced pursuant to Request No. 21) that relate to the unit and dollar sales and revenues of Subject Drugs in Kentucky.

Request No. 25: For each Pharmaceutical Class of Trade, all documents regarding the fifteen (15) largest United States purchasers (by units) of Subject Drugs(s) within each Pharmaceutical Class of Trade, including, but not limited to, contracts, correspondence, Price Representations, sales/marketing information, and invoices.

Response to Request No. 25:

In addition to the General Objections set forth above, Respondent objects to Request No. 25 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Accordingly, Respondent objects to Request No. 25 to the extent that, *inter alia*, it seeks: (i) “all

documents regarding the 15 largest United States purchasers;" and (ii) documents regarding non-Kentucky purchasers of the Subject Drugs. Respondent further objects to this Request to the extent that it is it duplicative and cumulative of other requests, including without limitation Request Nos. 19, 21, 23 and 24. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 25 (to the extent such documents exist and are not produced pursuant to Request Nos. 19, 21, 23 and 24) sufficient to show the 15 largest United States purchasers of Subject Drugs.

Request No. 26: For each Pharmaceutical Class of Trade, all documents regarding the fifteen (15) largest Kentucky purchasers (by units) of Subject Drugs(s) within each Pharmaceutical Class of Trade, including, but not limited to contracts, correspondence, Price Representations, sales/marketing information, and invoices.

Response to Request No. 26:

In addition to the General Objections set forth above, Respondent objects to Request No. 26 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 26 to the extent that, *inter alia*, it seeks "all documents regarding the 15 largest Kentucky purchasers." Respondent further objects to the phrase "Kentucky purchasers" as rendering the request vague and ambiguous to the extent it purports to encompass anything other than customers with a bill to or ship to address in Kentucky. Respondent further objects to this Request to the extent that it is it duplicative and cumulative of other requests, including without limitation Request Nos. 19, 21 and 23-25.

Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 26 (to the extent such documents exist and are not produced pursuant to Request Nos. 19, 21 and 23-25) sufficient to show the 15 largest purchasers in Kentucky of Subject Drugs.

Request No. 27: All documentation containing, or relating to, your company policies, procedures, manuals, or guidelines pertaining to pricing, marketing, selling, distributing, or advertising of your drugs.

Response to Request No. 27:

In addition to the General Objections set forth above, Respondent objects to Request No. 27 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this Request to the extent that, *inter alia*, it (i) seeks all documents “relating to . . . policies, procedures, manuals, or guidelines pertaining to pricing, marketing, selling, distributing, or advertising of your drugs”; and (ii) is not limited to the Subject Drugs or Kentucky. Respondent further objects to Request No. 27 on the grounds that the terms “pricing,” “marketing,” “selling,” “distributing,” and “advertising” are not defined, rendering this request vague, ambiguous, overbroad and unduly burdensome. Respondent further objects to Request No. 27 to the extent that it is duplicative and cumulative of other requests, including without limitation Request Nos. 3-9. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 27 (to the extent such documents exist and are not produced pursuant to Request Nos. 3-9) that it believes contain Respondent’s policies,

procedures, manuals, or guidelines pertaining to pricing, marketing, selling, distributing, or advertising of Subject Drugs in Kentucky.

Request No. 28: All catalogues and sales materials for the Subject Drugs and all reports, memoranda, circulars, letters, bulletins, instructions, or other documents sent to or provided to salesmen, service representatives, customers, distributors, or other persons relating to the Subject Drugs, including, but not limited to, all documents relating to any Incentive related to the distribution or sale of any of the Subject Drugs.

Response to Request No. 28:

In addition to the General Objections set forth above, Respondent objects to Request No. 28 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Accordingly, Respondent objects to Request No. 28 to the extent that, *inter alia*, it: (i) seeks “all documents;” (ii) seeks documents regarding “any Incentive;” and (iii) is not limited to the sale and distribution of Subject Drugs in Kentucky. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 28 relating to any Incentive related to the distribution or sale of the Subject Drugs in Kentucky or to the pricing or reimbursement of the Subject Drugs in Kentucky.

Request No. 29: All documents relating to any analyses, survey, study, or report related to actual, contemplated, or proposed methods or rates of reimbursement for Pharmaceuticals for the Medicare Part B or Medicaid program, or the Medical Assistance Program. Such documents



shall include but not be limited to, those generated by you or on your behalf and those generated by third party sources.

Response to Request No. 29:

In addition to the General Objections set forth above, Respondent objects to Request No. 29 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 29 to the extent that, *inter alia*, it: (i) seeks “[a]ll documents relating to any analyses, survey, study or report related to actual, contemplated or proposed methods or rates of reimbursement;” and (ii) is not limited to documents concerning the Subject Drugs. Respondent further objects to this Request to the extent that it is duplicative and cumulative of other requests, including without limitation Request Nos. 13 & 16. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 29 (to the extent such documents exist and are not produced pursuant to Request Nos. 13 & 16) that relate to methods or rates of reimbursement for the Subject Drugs.

Request No. 30: All documents relating to any analyses, survey, study or report related to how any of your Price Representations or any other price related decisions you made for any of the Subject Drugs, or any Competing Pharmaceutical, affected the amount of reimbursement any of your customers received from the Medicare Part B (or beneficiary thereof) or Medicaid program, or the Medical Assistance Program.

Response to Request No. 30:

In addition to the General Objections set forth above, Respondent objects to Request No. 30 because its use of the phrases “price related decisions” and “affected the amount of reimbursement” renders the Request vague and ambiguous. Respondent further objects to this Request because it seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 30 to the extent that, *inter alia*, it: (i) seeks “all documents relating to any analyses, survey, study or report;” and (ii) is not limited to documents concerning the pricing of Subject Drugs and Competing Pharmaceuticals in Kentucky. Finally, Respondent further objects to Request No. 30 to the extent it suggests that Respondent used pricing to “affect[] the amount of reimbursement” of Medicare, Medicaid or Medical Assistance Program patients.

Request No. 31: All documents relating to the percentage of your sales of any of the Subject Drugs within a Pharmaceutical Class of Trade that were sold to GPOs under contract and/or that were sold to a wholesaler or distributor under contract.

Response to Request No. 31:

In addition to the General Objections set forth above, Respondent objects to Request No. 31 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 31 to the extent that, *inter alia*, it: (i) seeks “all documents relating to the percentage of ... sales”; and (ii) is not limited to sales of Subject Drugs in Kentucky. Respondent further objects to this Request to the extent that it is it duplicative and cumulative of other requests, including without limitation Request Nos. 21 and 24. Subject to

and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 31 (to the extent such documents exist and are not produced pursuant to Request Nos. 21 and 24) that relate to the sales of Subject Drugs to GPOs, wholesalers or distributors in Kentucky.

Request No. 32: Electronic data sufficient to identify:

- a) each sale and/or other transaction involving the Subject Drugs including the date hereof;
- b) for each sale and/or other transaction involving the Subject Drugs, the name and address of the person to whom you bill for the sale of the Subject Drugs (the "bill-to-customer") and, in addition, the full name and address of the parent company, if the database or documents identify a subsidiary, corporate affiliate, division, satellite office, or warehouse;
- c) for each sale and/or other transaction involving the Subject Drugs, the name and address of the person to whom you ship the Subject Drugs (the "ship to customer") and, in addition, the full name and address of the parent company, if the database or documents identify a subsidiary, corporate affiliate, division, satellite office, or warehouse;
- d) discounts, rebates, Chargebacks, returns and/or other price and quantity adjustments relating to each sale, transaction, and/or set of sales or transactions involving or relating to the Subject Drugs;
- e) any other price or unit adjustments - whether monthly, quarterly, or on any other basis - involving, or relating to sales or transactions involving the Subject Drugs; and

- f) the net amount in dollars, and in dollars per unit, for each sale and/or other transaction involving, or relating to the Subject Drugs.

Response to Request No. 32:

In addition to the General Objections set forth above, Respondent objects to Request No. 32 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this request, which, *inter alia*, involves an unreasonably large amount of data and is not limited to the Commonwealth of Kentucky. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged electronic data, if any, that are responsive to Request No. 32 and concern sales or transactions in Kentucky involving the Subject Drugs.

Request No. 33: Documents sufficient to explain the record layout, including, but not limited to, any or all of the data fields, of electronic data produced in response to any of these requests, and/or the operation of any equipment or software utilized by you to maintain the responsive electronic data.

Response to Request No. 33:

In addition to the General Objections set forth above, Respondent objects to Request No. 33 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 33 to the extent that, *inter alia*, (i) the terms “record layout” and “data fields” are undefined, vague and ambiguous; and (ii) it is not limited to

documents concerning Kentucky. Respondent further objects to this request to the extent that it seeks the disclosure of intellectual property in violation of any applicable state, national or international law. Subject to and without waiving these specific objections or its General Objections, Respondent will produce responsive, non-privileged documents, if any, maintained in electronic form sufficient to explain the record layout of electronic data.

Request No. 34: Excluding hospital sales, documents that identify the distribution or sales you or any wholesaler, distributor, Group Purchasing Organization, independent distribution network, pharmacy benefit manager or other Entity made to a customer or Healthcare Provider at or above AWP, WAC, DP or SWP, for any of the Subject Drugs.

Response to Request No. 34:

In addition to the General Objections set forth above, Respondent objects to Request No. 34 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Respondent objects to Request No. 34 to the extent that it: (i) seeks documents concerning the defined term SWP which, as defined, is vague and ambiguous; (ii) is not limited to documents concerning sales of Subject Drugs in Kentucky; and (iii) seeks “documents that identify the distribution or sales [made by] any wholesaler, distributor, Group Purchasing Organization, independent distribution network, pharmacy benefit manager or other Entity.” Respondent further objects to this Request to the extent that it is duplicative and cumulative of other requests, including without limitation Request Nos. 21 and 24. Respondent further objects to this Request because its use of the term “SWP” as defined renders it vague and ambiguous, and because, to the extent it seeks documents concerning sales “made to a customer” by other entities, it requests

documents not within Respondent's possession, custody or control. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents (to the extent such documents exist and are not produced pursuant to Request Nos. 21 and 24) sufficient to identify its sales at or above AWP, WAC and DP of Subject Drugs in Kentucky.

Request No. 35: All documents that discuss, study, or compare the quality of the Subject Drugs manufactured by you, or on your behalf, with any therapeutically equivalent drugs manufactured, produced, or distributed by any other company.

Response to Request No. 35:

In addition to the General Objections set forth above, Respondent objects to Request No. 35 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the Request to the extent that, *inter alia*, it is not limited to the Commonwealth of Kentucky. Respondent further objects to Request No. 35 on the grounds that the term "quality" is not defined, rendering this request vague, ambiguous, overbroad, unduly burdensome.

Request No. 36: The minutes of, and materials distributed at, all meetings of your board(s) of directors (or any subset thereof) relating to any government investigation, inquiry, or any litigation related to any allegation that you misrepresented, misstated, or otherwise manipulated any price representation or improperly provided a kickback, inducement, payment, or other benefit to a Healthcare Provider for the purpose of influencing a Healthcare Provider to purchase, prescribe, administer, or dispense any Pharmaceutical.

Response to Request No. 36:

In addition to the General Objections set forth above, Respondent objects to Request No. 36 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 36 to the extent that, *inter alia*, it is not limited to documents concerning: (i) Subject Drugs; and (ii) Medicaid programs and Medicare patients in Kentucky. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 36 and are related to the use of AWP in Medicaid or Medicare reimbursement for the Subject Drugs in Kentucky.

Request No. 37: To the extent that you divested any Subject Drugs, all documents relating to any due diligence related to such divestiture.

Response to Request No. 37:

In addition to the General Objections set forth above, Respondent objects to Request No. 37 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 37 to the extent that, *inter alia*, it seeks “all documents relating to any due diligence.” Respondent further objects to this Request because its use of the terms “divested,” “divestiture” and “due diligence” render it vague and ambiguous.

Request No. 38: All documents relating to your policies, procedures, and or practices concerning the retention and destruction of documents.

Response to Request No. 38:

Subject to and without waiving its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 38.

Request No. 39: All affidavits, declarations, depositions, or other written statements under oath provided by you relating to any allegation that you overstated, misstated, or otherwise manipulated the AMP, AWP, DP or WAC, or Best Price for any of your Subject Drugs.

Response to Request No. 39:

In addition to the General Objections set forth above, Respondent objects to Request No. 39 on the ground that it seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 39 to the extent that, *inter alia*, it seeks: (i) documents regarding the defined terms AMP and Best Price; and (ii) documents concerning Medicaid programs or Medicare patients that are not particular to Kentucky.

Request No. 40: All documents sufficient to identify your distribution policies and procedures in the United States pharmaceuticals market for any of your Subject Drugs.

Response to Request No. 40:

In addition to the General Objections set forth above, Respondent objects to Request No. 40 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 40 to the extent that, *inter alia*, it is not limited to the distribution of Subject Drugs in Kentucky. Respondent further objects to this Request to



the extent that it is duplicative and cumulative of other requests, including without limitation Request No. 28. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 40 (to the extent such documents exist and are not produced pursuant to Request No. 28) sufficient to identify its distribution policies and procedures for the Subject Drugs in Kentucky.

Request No. 41: Regarding AWP, ASP, and any other Price Representation, all documents related to any communications by and between you and any lobbyists, public relations firms, industry consultants, or industry trade groups (including, but not limited to, the Pharmaceutical Research and Manufacturers of America, the National Pharmaceutical Council, or the Generic Pharmaceutical Association).

Response to Request No. 41:

In addition to the General Objections set forth above, Respondent objects to Request No. 41 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 41 to the extent that, *inter alia*, it: (i) seeks "all documents related to any communications;" (ii) seeks documents concerning the defined term ASP; and (iii) is not limited to documents concerning Subject Drugs in Kentucky. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 41 constituting communications concerning the AWP for Subject Drugs in Kentucky.

Request No. 42: All documents relating to any communication, including any meetings, whether formal or informal, between you and any other pharmaceutical manufacturer regarding:

- a) any actual, proposed, or prospective price announcements, price changes, or price lists for any Pharmaceuticals;
- b) any actual, proposed, or prospective pricing methods, practices, policies, or strategies for any Pharmaceuticals;
- c) any actual, proposed, or prospective marketing methods, practices, policies, or strategies for any Pharmaceuticals;
- d) territories, markets, marketing agreements, or specific customers for sales of any Pharmaceuticals;
- e) Medicare Part B, Medicaid and their respective policies of reimbursement for any Pharmaceuticals; and
- f) a Price Representation for any Pharmaceutical.

Response to Request No. 42:

In addition to the General Objections set forth above, Respondent objects to Request No. 42 as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant evidence. Accordingly, Respondent objects to Request No. 42 to the extent that, *inter alia*, it: (i) seeks “[a]ll documents relating to any communication;” (ii) seeks documents regarding “any Incentive;” (iii) is not limited to documents concerning Subject Drugs; and (iv) is not limited to document concerning the pricing, marketing, sale or distribution of Subject Drugs in Kentucky. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 42

and constitute communications with pharmaceutical manufacturers concerning the pricing, marketing, sale or distribution of Subject Drugs in Kentucky.

Request No. 43: All documents related to any contract or agreement (formal or informal) between you and any other pharmaceutical manufacturer relating to any Price Representation, pricing discount, rebate request for proposal, bid, free goods, samples, grants, fees, penalties, or other Incentive, for any of the Subject Drugs.

Response to Request No. 43:

In addition to the General Objections set forth above, Respondent objects to Request No. 43 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Accordingly, Respondent objects to Request No. 43 to the extent that, *inter alia*, it: (i) seeks “[a]ll documents related to any contract or agreement;” and (ii) is not limited to contracts and agreements concerning Kentucky. Respondent further objects to this Request on the ground that the term “informal” contract or agreement is vague and ambiguous. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 43 and that it believes constitute contracts or agreements with pharmaceutical manufacturers concerning the pricing, marketing, sale or distribution of Subject Drugs in Kentucky.

Request No. 44: All documents relating to discounts, rebates, credits, or any other reduction from list prices or announced prices offered by you or any other company relating to the sale of the Subject Drugs.

Response to Request No. 44:

In addition to the General Objections set forth above, Respondent objects to Request No. 44 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 43 to the extent that, *inter alia*, it is not limited to the Commonwealth of Kentucky. Respondent further objects to Request No. 44 on the grounds that its use of the terms “discounts,” “rebates,” “credits” and “other reductions from list prices or announced prices” are not defined, rendering this request vague, ambiguous, overbroad and unduly burdensome. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents from customer contract files, if any, that are responsive to Request No. 44 and relate to the sale of the Subject Drugs in Kentucky.

Request No. 45: All documents produced by you in any state or federal government investigation or inquiry related to the use of AWP or any other Price Representation relating to Medicare Part B or Medicaid reimbursement for Pharmaceuticals.

Response to Request No. 45:

In addition to the General Objections set forth above, Respondent objects to Request No. 45 because it seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 45 to the extent that, *inter alia*, it is not limited to documents concerning (i) Subject Drugs; and (ii) Medicaid programs or Medicare patients in Kentucky. Respondent further objects to this Request to the extent that it is duplicative and cumulative of other requests, including without

limitation Request No. 39. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 45 (to the extent such documents exist and are not produced pursuant to Request No. 39) and that relate to state or federal government investigations or inquiries concerning the use of AWP in Medicaid or Medicare reimbursement for the Subject Drugs in Kentucky.

Request No. 46: All documents produced by you in response to any Civil Investigative Demand, subpoena, discovery requests, or document requests regarding any pharmaceutical pricing issues, including, but not limited to, cases involving Ven-A-Care of the Florida Keys, Inc.

Response to Request No. 46:

In addition to the General Objections set forth above, Respondent objects to Request No. 46 because it seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 46 to the extent that, *inter alia*, it is not limited to documents concerning: (i) Subject Drugs; and (ii) Medicaid programs or Medicare patients in Kentucky. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 46 and were produced in response to other document requests that relate to the use of AWP in Medicaid or Medicare reimbursement for the Subject Drugs in Kentucky.

Request No. 47: All documents provided by you, directly or indirectly, to wholesalers, distributors, Group Purchasing Organizations, independent distribution networks, pharmacy

benefit managers, customers, or any Healthcare Provider, relating to the Spread for any of the Subject Drugs, including those of a competitor. Such documents shall include, without limitation, computer programs, databases, PowerPoint presentations, DVDs, CD-ROM, printouts, proposals, or sell-sheets.

Response to Request No. 47:

In addition to the General Objections set forth above, Respondent objects to Request No. 47 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 47 to the extent that, *inter alia*, it: (i) seeks “[a]ll documents provided ... directly or indirectly;” and (ii) is not limited to documents concerning the pricing, marketing, sale or distribution of Subject Drugs in Kentucky. Respondent further objects to this Request on the ground that the phrase “provided ... indirectly” and term “sell-sheets” are vague and ambiguous. Finally, Respondent objects to this Request No. 47 to the extent that it is duplicative of Request Nos. 10 and 34. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 47 (to the extent such documents exist and are not produced pursuant to Request Nos. 10 and 34) that relate to the Spread of Subject Drugs in Kentucky.

Request No. 48: All documentation of internal communications between or among you, and/or external communications between you and other Entities, including, but not limited to, emails, notes, minutes of meetings, memorandum, regarding the Kentucky Medicaid program's calculation or determination of Medicaid reimbursement rates for your Pharmaceuticals.

Response to Request No. 48:

In addition to the General Objections set forth above, Respondent objects to this Request because it is overly broad and unduly burdensome, and, because it is not limited to the Subject Drugs, it purports to seek information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 49: All documentation sent by you to any Commonwealth of Kentucky agency, or any other state or federal Entity concerning Medicaid rebate payment or reporting obligations, including, but not limited to rebate agreements, checks, or lowest price disclosures.

Response to Request No. 49:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to Request No. 47 to the extent that, *inter alia*, it (i) it refers to “any other state or federal Entity,” (ii) is not limited to Kentucky or to the Subject Drugs that are at issue in this litigation; and (iii) seeks documents that are already in the possession, custody or control of Plaintiff or are otherwise available to Plaintiff, in a way that would be less burdensome or expensive, from a public source or some other source. Respondent further objects to this request to the extent it seeks documents that are protected under Federal law.

Request No. 50: All documentation of contracts, agreements, accords, relationships, or ventures between you and all Kentucky Customers.

Response to Request No. 50:

In addition to the General Objections set forth above, Respondent objects to this request on the grounds that it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this request because, *inter alia*, it is not limited to the Subject Drugs at issue in this litigation. Respondent further objects to this request because its use of the phrase “accords, relationships or ventures” renders it vague and ambiguous and incapable of accurate response.

Request No. 51: All documentation of contracts, agreements, accords, relationships, or ventures between you and all Entities who performed any service for you which pertained to your duties, responsibilities, or requirements to any federal or state agency or Entity, including, but not limited to, the Kentucky Medicaid program, concerning, in any way, Medicaid reimbursements and Medicaid rebates.

Response to Request No. 51:

In addition to the General Objections set forth above, Respondent objects to this request on the grounds that it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this request because, *inter alia*, it is not limited to Kentucky or the Subject Drugs at issue in this litigation. Respondent further objects to this request because its use of the phrase “accords, relationships or ventures” renders it vague and ambiguous and incapable of accurate response.



Request No. 52: All documents concerning your communications or contact with members of the United States Congress, and/or their staffs, relating to drug marketing, pricing, price reporting, and reimbursement; specifically including, but not limited to, all notices, invitations, bulletins, letters, emails, materials, notebooks, agendas, notes, or outlines from meetings, conferences, or gatherings with such members of Congress and/or their staffs, or prepared in anticipation of such meetings, conferences, or gatherings.

Response to Request No. 52:

In addition to the General Objections set forth above, Respondent objects to this request on the grounds that it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this request because, *inter alia*, it is not limited to Kentucky or the Subject Drugs at issue in this litigation.

Request No. 53: All data received from any outside audit service, regarding [Schering Corporation's/Warrick Pharmaceuticals Corporation's/Schering-Plough Corporation's] market share for its Subject Drugs, and regarding the marketing of its Subject Drugs, this request includes, but is not limited to materials presented to [Schering Corporation/Warrick Pharmaceuticals Corporation/Schering-Plough Corporation] on an annual basis.

Response to Request No. 53:

In addition to the General Objections set forth above, Respondent objects to this request on the grounds that it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Accordingly, Respondent objects to this request because, *inter alia*, it is not limited to Kentucky. Respondent further objects to this request to the extent it is duplicative and cumulative of other requests, including without limitation Request Nos. 19-20. Respondent further objects to this request because it fails to define the product market within which it seeks market share information, thus rendering it vague and ambiguous and incapable of accurate response.

Request No. 54: To the extent not produced in response to any other request, all indemnification agreements between [Schering Corporation/Warrick Pharmaceuticals Corporation/Schering-Plough Corporation] and its parent companies, and [Schering Corporation's/Warrick Pharmaceuticals Corporation's/Schering-Plough Corporation's] employees or former employees.

Response to Request No. 54:

In addition to the General Objections set forth above, Respondent objects to this request on the grounds that it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this request because, *inter alia*, it is not limited to Kentucky or the Subject Drugs at issue in this litigation.

Request No. 55: On a quarterly basis at the minimum, produce all spreadsheets or other summarizing documentation, in an electronic, computerized, paper, or other format, reflecting or relating to "net", "dead net", "wholesale net", "net-net" or any other pricing term or designation describing a price, which is reduced by discount, rebate, bonus, or Chargebacks. (This request for Production is limited in scope to the Defined Time Period for the Subject Drugs.)

Response to Request No. 55:

In addition to the General Objections set forth above, Respondent objects to this request on the grounds that it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this request because, *inter alia*, it (i) is not limited to Kentucky; and (ii) is duplicative and cumulative of numerous other requests concerning pricing. Respondent further objects to this request on the grounds that the phrase “actual net prices” is not defined, rendering this request vague, ambiguous, and overbroad.

Request No. 56: For each year during the relevant time period, all documents, such as organizational charts, sufficient to show the organization of each division, department, unit, or subdivision of your company that had any role in the production, manufacture, market allocation, distribution, marketing, pricing, or sale of the Subject Drugs.

Response to Request No. 56:

In addition to the General Objections set forth above, Respondent objects to this request on the grounds that it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or its General Objections, Respondent will produce organizational charts and/or other documents sufficient to show the organization of Warrick’s sales, marketing, and accounting departments.

Request No. 57: Any promotional documents and public statements, announcements, disclosures, or press releases issued by you, any defendant, or any of your competitors referring

or relating to the price, distribution, marketing, or sale of the Subject Drugs, including any media files maintained by you.

Response to Request No. 57:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this request because, *inter alia*, it is not limited to the Commonwealth of Kentucky. Respondent further objects to this request on the grounds that the terms and phrases “promotional documents,” “public statements,” “announcements,” “disclosures” and “media files” are not defined, rendering this request vague, ambiguous, overbroad and unduly burdensome. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 57 and constitute advertisements, promotional flyers, or price notification letters related to the Subject Drugs.

Request No. 58: All business plans, budgets, forecasts, sales, or profit projections referring or relating, in whole or in part, to the Subject Drugs.

Response to Request No. 58:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to the

Commonwealth of Kentucky. Respondent further objects to this request on the grounds that its use of the terms and phrases “business plans,” “budgets,” “forecasts,” and “sale or profit projections” render it vague, ambiguous, overbroad and unduly burdensome. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 58 and constitute what Respondent believes to be business plans, sales reports, or forecast materials.

Request No. 59: All documents which reflect the prices charged to, and other terms and/or conditions of sale for the Subject Drugs, including, without limitation, pricing or contracting manuals, price lists, guidelines, matrices, policies, and/or formulas, for each customer and/or class of trade or subgroup thereof or other documents that are sufficient to identify:

- a) the wholesale acquisition cost and/or other published prices for the Subject Drugs;
- b) payment terms;
- c) discounts, rebates, Chargebacks, or other adjustments offered to any purchaser and/or Pharmaceutical Class of Trade;
- d) prices and terms of sale for wholesale purchasers;
- e) prices, discounts, rebates, or other adjustments for chain pharmacy purchasers;
- f) prices, discounts, rebates, or other adjustments for hospital purchasers;
- g) prices, discounts, rebates, or other adjustments for managed care purchasers;
- h) prices, discounts, rebates, or other adjustments for mail order purchasers;

- i) prices, discounts, rebates, or other adjustments for any and all other purchaser class of trade or subgroup.

Response to Request No. 59:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome, requests an unreasonably large quantity of documents, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to the Commonwealth of Kentucky. Respondent further objects to this request on the grounds that its use of the terms “pricing or contract manuals,” “price lists,” “guidelines,” “matrices,” “discounts,” “rebates,” and “chargebacks,” which are not defined, renders the request vague, ambiguous, overbroad and unduly burdensome. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged electronic data or documents, if any, that are responsive to Request No. 59 and constitute pricing and rebate matrices or customer contract files which contain documentation that is responsive to this Request.

Request No. 60: All documents constituting or relating to written contracts which, in whole or in part, govern the sale of the Subject Drugs by you, whether or not those contracts are with customers who purchase the Subject Drugs directly from you, including drafts, correspondence, and supporting detail and data (in electronic form where available).

Response to Request No. 60:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the

subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to Kentucky.

Subject to and without waiving these specific objections or its General Objections, Respondent will produce produce a sample, based on a sampling method mutually agreed upon by

Respondent and Plaintiff, of hard copy non-privileged documents from customer contract files, if any, that are responsive to Request No. 60.

Request No. 61: Documents sufficient to reflect the organization and any changes occurring in each and every division, subdivision, unit, subsidiary, and affiliate of your company having any involvement with any of the Subject Drugs during any period in which the Subject Drugs were being considered, developed, marketed, or sold.

Response to Request No. 61:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Accordingly, Respondent objects to the request because, *inter alia*, it (i) covers an indefinite time period, and (ii) is not limited to involvements with the Subject Drugs that are related to Kentucky.

Respondent also objects to this request to the extent that it seeks documents in the possession, custody or control of persons over which Respondent has no control.

Request No. 62: All documents relating to pre- and post-market entry strategy regarding the Subject Drugs, including analysis, forecasting, and projections, pricing, and any other matters in connection therewith.

Response to Request No. 62:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to Kentucky.

Respondent further objects to this request on the grounds that its use of the terms and phrases “market entry strategy,” “forecasting and projections,” and “pricing” renders it vague, ambiguous, overbroad and unduly burdensome. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 62 and constitute “product launch files,” customer contract files or pricing notification letters.

Request No. 63: All Blue Book and Red Book Annual Product Update Reports in your possession, custody, or control, relating to the Subject Drugs.

Response to Request No. 63:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 64.

Request No. 64: All National Drug Data File Product Update Reports prepared by First Data Bank in your possession, custody, or control relating to the Subject Drugs.



Response to Request No. 64:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 64.

Request No. 65: All price verification reports sent by any price reporting services relating to the Subject Drugs other than those produced in response to requests No. 63 and 64.

Response to Request No. 65:

In addition to the General Objections set forth above, Respondent objects to this request on the grounds that it is overly broad and unduly burdensome. Respondent also objects to this request because its use of the terms “price verification reports” and “price reporting services,” which are not defined, renders this request vague, ambiguous, overbroad and unduly burdensome. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 65.

Request No. 66: All documents containing data and any other material from which you calculated AMP and Best Price for the Subject Drugs for the Medicaid Rebate Program, together with any record containing or outlining assumptions made by you in your calculation of AMP and Best Price.

Response to Request No. 66:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it seeks (i) "data and any other material" from which calculations were made; and (ii) is not limited to the Commonwealth of Kentucky. Respondent also objects to this request to the extent it seeks documents that are protected by Federal law. Respondent further objects to this request on the grounds that its use of the terms "assumptions," "AMP," and "Best Price," which are not defined, renders the request vague and ambiguous.

Request No. 67: All organizational charts or other documents describing or depicting [Schering Corporation/Warrick Pharmaceuticals Corporation/Schering-Plough Corporation], its subsidiaries, parents, affiliates, divisions, departments, offices, units, or other subdivisions and the relationship among them.

Response to Request No. 67:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Respondent further objects to this Request to the extent it is duplicative and cumulative of other requests, including without limitation Request No. 56. In addition, Respondent objects to this request to the extent that it seeks documents which are not within the possession, custody, or control of Respondent.

Request No. 68: All documents reflecting, referring to, describing or consisting of communications between you and any "Healthcare Management Organization" (known as an "HMO") or any "Pharmaceutical Benefits Manager" (known as a "PBM") which pertains to the pharmaceutical reimbursement of the Subject Drugs, including, but not limited to, documents which pertain to the Subject Drugs being on an HMO or PBM pharmaceutical reimbursement formulary.

Response to Request No. 68:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to the Commonwealth of Kentucky. Respondent further objects to this request on the grounds that its use of the term "communications" renders the Request vague, ambiguous and overbroad.

Request No. 69: Limited to the Subject Drugs, all documents reflecting, referring to, describing or consisting of contracts, presentations, proposals, bids, and related correspondence between you and (a) Group Purchasing Organizations, (b) cooperatives of independent pharmacies, (c) chain drug stores which manage their own warehouses, (d) home health care companies (including, but not limited to Apria, Managed Healthcare Associates, Pharmacy Factors, Homedco, Abbey Healthcare, and related companies), (e) "source," "generic source," "select," or "autosubstitution," wholesaler programs, (f) mail-order pharmacies, (g) elderly nursing care companies such as Gerimed, IVmed, Rxmed and other related companies, or (h) wholesalers or distributors.

Response to Request No. 69:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome, requests an unreasonably large quantity of documents, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to Kentucky. Respondent also objects to this request because its use of the terms "Group Purchasing Organizations," "cooperatives of independent pharmacies," "home health care companies," "source," "generic source," "select" or "autosubstitution," "wholesaler programs," "mail-order pharmacies" and "elderly nursing care companies," which are not defined, renders this request vague, ambiguous, overbroad and unduly burdensome. Subject to and without waiving these specific objections or its General Objections, Respondent will produce a sample, based on a sampling method mutually agreed upon by Respondent and plaintiff, of non-privileged documents from customer contract files, if any, that are responsive to Request No. 69.

Request No. 70: All documents reflecting, referring to, describing, or consisting of agreements, contracts and correspondence with any agents, contractors, consultants, advisors, or other person(s) or Entity who sold, marketed, priced, advertised, negotiated, or otherwise consulted on behalf of you for your benefit concerning the Subject Drugs.

Response to Request No. 70:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome, requests an unreasonably large quantity of documents, and seeks information not relevant to the subject matter involved in the pending

action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to the Commonwealth of Kentucky. Subject to and without waiving these specific objections or its General Objections, Respondent will produce a sample, based on a sampling method mutually agreed upon by Respondent and plaintiff, of non-privileged documents from customer contract files, if any, that are responsive to Request No. 71.

Request No. 71: All documents reflecting, referring to, describing, or consisting of price file data bases or similar data bases within the possession, custody, or control of, or maintained by [Schering Corporation/Warrick Pharmaceuticals Corporation/Schering-Plough Corporation], which contain information relating to the sale or distribution of the Subject Drugs.

Response to Request No. 71:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to the Commonwealth of Kentucky. Respondent also objects to this request on the grounds that its use of the term “price file data bases,” which is not defined, renders this request vague, ambiguous, overbroad and unduly burdensome. Respondent further objects to this request to the extent that it is duplicative and cumulative of other requests, including without limitation Request No. 32.

Request No. 72: All documents in the files of Warrick and its parent, [Schering/Schering-Plough], received from, sent to, or created by the National Pharmaceutical

Council, including, but not limited to, those documents concerning any and all analysis or discussion of Medicaid programs, including, but not limited to, the Kentucky Medical Assistance Program.

Response to Request No. 72:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to the Commonwealth of Kentucky or the Subject Drugs at issue in this litigation.

Request No. 73: All documents sent or received by Schering-Plough to, or from, Warrick concerning the Subject Drugs.

Response to Request No. 73:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to Kentucky and seeks a large quantity of irrelevant documents.

Request No. 74: All documents concerning any, and all, financial, advertising sales, or marketing responsibilities, or duties performed on behalf of, or for the benefit of, Warrick through the use of Schering-Plough personnel, systems, networks, data, or computers.

Response to Request No. 74:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to this Request to the extent that, *inter alia*, it: (i) seeks “all documents;” (ii) seeks documents regarding “any, and all, financial, advertising sales, or marketing responsibilities or duties;” and (iii) is not limited to the sale and distribution of Subject Drugs in Kentucky. Finally, Respondent objects to this Request to the extent that it is duplicative and cumulative of other requests, including without limitation Request No. 28. Subject to and without waiving these specific objections or its General Objections, Respondent will produce non-privileged documents, if any, that are responsive to Request No. 74 relating to any financial, advertising sales, or marketing responsibilities or duties related to the distribution or sale of the Subject Drugs in Kentucky.

Request No. 75: All documentation pertaining to conferences or seminars attended by Warrick or Schering-Plough personnel, which pertains to Medicaid, or pharmaceutical reimbursement in any way.

Response to Request No. 75:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to the

Commonwealth of Kentucky or the Subject Drugs at issue in this litigation. Respondent further objects to the extent the Request seeks information available, in a way that would be less burdensome and less expensive, from a public source or other source available to the Plaintiff.

Request No. 76: All documentation pertaining to pharmaceutical reimbursement for pharmaceuticals within the custody, or control of Warrick and its parent, Schering-Plough, including, but not limited to, documents received from, sent to, or created by:

- a) the organization known as the Pharmaceutical Research and Manufacturers of America;
- b) the organization known as the Healthcare Distribution Association and its predecessor, the National Wholesale Druggists Association;
- c) the organization known as the Health Industry Group Purchasing Association;
- d) the Drug Topics Magazine; and
- e) the F.T.C., which publishes documents known as "pink sheets."

Response to Request No. 76:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to the Commonwealth of Kentucky or the Subject Drugs at issue in this litigation. Respondent further objects to the extent the Request seeks information available, in a way that would be less burdensome and less expensive, from a public source or other source available to the Plaintiff.



Request No. 77: All documents within the custody or control of Schering-Plough, which concern the creation, management, or evaluation of Warrick.

Response to Request No. 77:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome, requests an unreasonably large quantity of documents, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to the Commonwealth of Kentucky or the Subject Drugs at issue in this litigation.

Request No. 78: All documents within the custody or control of Schering-Plough, which pertain to the Subject Drugs.

Response to Request No. 78:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome, requests an unreasonably large quantity of documents, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because it is not limited to the Commonwealth of Kentucky.

Request No. 79: Any and all agreements, contracts, and correspondence with any agents, contractors, consultants, advisors, or other Entity who sold, marketed, priced advertised, negotiated, or otherwise consulted on behalf of, or for the benefit of Warrick, or Schering-Plough concerning the Subject Drugs; specifically including, but not limited to, PACE, Bi-Coastal

Pharmaceutical, Access Worldwide, Harvey Weintraub, Ralph Massa, David Valerio, and Tony DeNacola.

Response to Request No. 79:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome, requests an unreasonably large quantity of documents, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to Kentucky. Respondent further objects to this Request to the extent that it is duplicative and cumulative of other requests, including without limitation Request No. 70. Respondent further objects to this request to the extent that it refers to the names "David Valerio" and "Tony DeNacola" (rather than "Daniel Valerio" and "Tony DeNicola"), rendering it vague and ambiguous. Subject to and without waiving these specific objections or its General Objections, Respondent will produce a sample, based on a sampling method mutually agreed upon by Respondent and plaintiff, of non-privileged contracts, if any, that are responsive to Request No. 79 and concern the Subject Drugs in Kentucky.

Request No. 80: All copies of, and documentation concerning Federal or Kentucky laws, regulations, administrative codes, rules, and policies within the custody, and control of Warrick, or Schering-Plough which pertain to a) the Medical Assistance Program, b) pharmaceutical reimbursement, or c) information reporting requirements concerning the Subject Drugs.

Response to Request No. 80:

In addition to the General Objections set forth above, Respondent objects to this request because it is facially overly broad and unduly burdensome and seeks information not relevant to

the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 81: All electronic documents relating, or referring to the Subject Drugs, or pharmaceutical reimbursement originating from, received by, or in the possession, custody, or control of:

- a) Harvey Weintraub
- b) Fran Musat
- c) Raul Cesan
- d) Rich Loughlin
- e) Rich Zahn
- f) James Audibert
- g) Steve Cooper
- h) Jerry Sherman
- i) Raman Kapur
- j) Bob Bucko
- k) Dave Reich
- l) Dan Valerio
- m) John Van Schaften
- n) Lou Manfredi
- o) Al Graf
- p) Walt Gough
- q) Phyllis Sinoradski
- r) Audrey Richards

- s) Michael Kennedy
- t) Michael Flynn, or
- u) Betsy Chorpenning

Response to Request No. 81:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome, requests an unreasonably large quantity of documents, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to Kentucky. Respondent further objects to this request to the extent that it refers to the names "Fran Musat" and "Michael Flynn" (rather than "Frank Musat" and "Michael Flinn"), rendering it vague and ambiguous. Respondent further objects to this Request as duplicative and cumulative of numerous other Requests, and requests documents not within Respondent's possession, custody or control.

Request No. 82: All documents relating to the Subject Drugs created by, received from, or in the custody, and control of groups known as "Managed Care," "Contracts and Information," "Trade Rebates," "Records Management," "Customer Service," "Medicaid Rebates," and the marketing, advertising, billing, and finance departments within your company.

Response to Request No. 82:

In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Accordingly, Respondent objects to the request because, *inter alia*, (i) it is not limited to Kentucky, and (ii) it seeks information unrelated to the pricing or reimbursement of the Subject Drugs. Respondent further objects to this Request on the grounds that its use of the terms “Managed Care” and “Contracts and Information” renders it vague and ambiguous. Respondent further objects to this Request as duplicative and cumulative of numerous other Requests.

Request No. 83: All documents reflecting, referring to, describing, or consisting of master price file data bases, or similar data bases within the possession, custody, or control of, or maintained by Schering, Inc, Schering-Plough Corporation, Warrick Pharmaceuticals Corporation, or any other Schering Entity, which contain information relating to the sale or distribution of the Subject Drugs.

Response to Request No. 83:


In addition to the General Objections set forth above, Respondent objects to this request because it is overly broad and unduly burdensome and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Respondent objects to the request because, *inter alia*, it is not limited to Kentucky. Respondent also objects to this request because its use of the term “price file data bases,” which is not defined, renders this request vague, ambiguous, overbroad and unduly burdensome. Finally, Respondent objects to this Request to the extent that it is duplicative and cumulative of other requests, including without limitation Request No. 71.

Respectfully submitted,

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and

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By:   
Palmer G. Vance II

COUNSEL FOR DEFENDANTS,  
WARRICK PHARMACEUTICALS CORP.,  
SCHERING-PLOUGH CORP., AND  
SCHERING CORP.

### **CERTIFICATE OF SERVICE**

This will certify that a true and correct copy of the foregoing was served by hand delivery to the following on this 15th day of November 2004:

Mr. C. David Johnstone  
OFFICE OF THE ATTORNEY GENERAL  
1024 Capital Center Drive  
Frankfort, KY 40601  
COUNSEL FOR PLAINTIFF

and by first class mail, postage prepaid, to the following on this 15<sup>th</sup> day of November 2004:

Mr. Charles J. Barnhill, Jr.  
MINER, BARNHILL & GALLAND PC  
44 East Mifflin, Suite 803  
Madison, WI 53703  
COUNSEL FOR PLAINTIFF

Mr. P. Jeffrey Archibald  
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Madison, WI 53711  
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COUNSEL FOR DEFENDANT, DEY, INC.



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COUNSEL FOR DEFENDANTS,  
WARRICK PHARMACEUTICALS CORP.,  
SCHERING-PLOUGH CORP., AND  
SCHERING CORP.

I hereby certify that the foregoing responses are true and correct to the best of my knowledge, information and belief.

Harvey Weintraub  
Harvey Weintraub

STATE OF New Jersey:

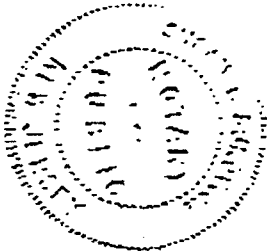
COUNTY OF Union:

Subscribed and sworn to before me by Harvey Weintraub on this 15<sup>th</sup> day of November, 2004.

My commission expires:

SUSAN T. SUKOVICH  
A Notary Public State of New Jersey  
My Commission Expires 7/18/2006

Susan T. Sukovich  
NOTARY PUBLIC





CERTIFICATE OF SERVICE

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